

REMARKS/ARGUMENTS

Applicants acknowledge, with appreciation, the indication by the Examiner that claims 13-18 are allowed and that claims 7-12 would be allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims.

Claim 7 has been amended in the manner requested by the Examiner. Therefore, claim 7 and dependent claims 8-12 should now be allowable.

Claims 1-4, which were the only claims rejected by the Examiner, were rejected "under 35 U.S.C. 102(b) as being anticipated by *Curiel*'s '290."

Applicants have amended independent claim 1 to more particularly point out certain patentable novel features of the invention. These features are neither disclosed, nor remotely suggested by the teachings in the *Curiel* '290 patent, which is directed to an entirely different process.

Specifically, claim 1 has been amended to make it clear that a radiation curable adhesive applied to a transfer member is in a minimally tacky state at the time of application to the transfer member.

Amended claim 1 also makes it clear that the adhesive in a minimally tacky state, and prior to being exposed to radiation, provides a working function by engaging and removing a lowermost label from a stack of labels.

This is a major distinction from the teaching in the *Curiel* '290 patent. Specifically, in Applicants' invention, as specified in claim 1, the adhesive is required to provide a working function (i.e., engage and remove a lowermost label from a stack of labels) prior to being irradiated.

In the *Curiel* '290 patent no such adhesive is disclosed. In fact, the *Curiel* '290 patent specifically teaches that the resin 132 applied to the tape 104, in order to acquire any tacky properties, needs to be radiated at station 160.

It should be noted that the tape 104 preferably is a release member with pockets formed therein, and the resin 132 initially directed into the pockets is not, in that condition, an adhesive component at all. The various resins disclosed in the *Curiel* '290 patent do not exhibit adhesive properties until exposed to a curing operation to, at the same time, also form the label to be applied to a package as a tamper evident indicator.

The method and product disclosed in the *Curiel* '290 patent bear absolutely no relationship to Applicants' invention, as is now specified in amended claim 1, for the reasons indicated earlier.

Moreover, it should be emphasized that in the *Curiel* '290 patent the initial radiation step is applied to a non-adhesive component to both render a portion of the resin 132 adhesive and also form a tamper evident label portion.

In Applicants' invention, as specified in claim 1, the label stock is employed in a stack, and is a base stock having absolutely no adhesive properties.

In the *Curiel* '290 invention, prior to exposing the resin 132 to a curing operation, it provides absolutely no working function. In otherwords, the resin requires curing to form both the tamper evident label component and the adhesive component before it is usable for any purpose.

In Applicants' invention the resin is an adhesive component at the outset and actually is required to provide work. Specifically, as is made clear in amended claim 1, the adhesive

component applied to the transfer member plays a very important function of removing the lowermost label from a stack of labels to permit the label to be conveyed through the process and attached to a container.

Curiel also fails to disclose the additional method steps specified in dependent claim 2. Specifically, claim 2 specifies that after a label has been removed from the stack through the minimally tacky adhesive component and before that label is applied to a container, the first minimally tacky adhesive component is exposed to a first irradiating station to irradiate the minimally tacky radiation curable adhesive to thereby increase the tackiness of that adhesive.

In the *Curiel* '290 process, the first irradiation station is not employed to increase the tackiness of any adhesive component that had minimal tack properties. In fact, in the *Curiel* process the resin 132, prior to exposure to the first irradiation step, is not an adhesive at all. The first irradiation step in *Curiel* is, as explained earlier, required to both form the label and render a portion of the resin tacky. This is a major distinction from Applicants' invention wherein the label already exists at the time that it is directed through the first irradiation step with the minimally tacky adhesive thereon.

Applicants also rejected claims 1-4 on the basis of non-statutory obviousness-typed double patenting, as being unpatentable over the claims in U.S. Patent Nos. 6,517,661; 6,939,428 and 6,514,373.

Applicants respectfully disagree with this double-patenting rejection. In the patents specifically identified by the Examiner none of the claims specify or suggest the step of exposing a label with a minimally tacky adhesive component thereon to an irradiation step after the label has been adhered to a container. This is the specific feature recited in independent claim 1 and

claims 2-4 dependent therefrom. None of the claims in the '661 patent; '428 patent or the '373 patent teach or render obvious the method specified in independent claim 1, particularly as amended herein, or the methods specified in claims 2-4 dependent therefrom.

In the original Office Action mailed from the U.S. Patent and Trademark Office on April 3, 2006, the Examiner took the position that claims 1-18, drawn to a method, were patentably distinct from claims 19-30 drawn to an apparatus.

Based upon the scope of the claims at the time that the Restriction Requirement was rendered Applicants elected to prosecute the method claims, without traverse.

However, in view of the present Amendment of independent claim 1, Applicants submits that the methods set forth in claims 1-18 should not be restricted from apparatus claims 19-30. Therefore, claims 19-30 are presented herein as "original claims" rather than as "withdrawn claims."

The Examiner's attention is directed to the original Restriction Requirement wherein the Examiner took the position that "the process as claimed can be practiced by another and maturely different apparatus such as an apparatus that does not have a stack of a plurality of individual labels."

Claim 1, as amended herein, now includes as part of the method claim a limitation that a lowermost label from a stock of labels is removed from the stack.

Thus, in view of the amendment to claim 1, the inventions specified in the apparatus and method claims are not independent or distinct. Accordingly, Applicants submit that the apparatus claims should be examined in this application, and in fact, should be allowed for the same reasons set forth earlier in connection with the method claims.

Application No. 10/759,879
Amendment Dated November 6, 2006
Reply to Office Action of July 6, 2006

In view of the above remarks, Applicants submit that this application is now in condition for allowance and such action is respectfully requested.

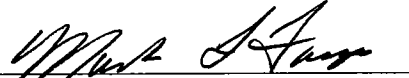
Should the Examiner believe that anything further is desirable in order to place the application in even better condition for allowance, the Examiner is invited to contact Applicants' undersigned attorney at the telephone number listed below.

Respectfully submitted,

CAESAR, RIVISE, BERNSTEIN,
COHEN & POKOTILOW, LTD.

November 6, 2006

By:



Martin L. Faigus

Registration No. 24,364

Customer No. 03000

(215) 567-2010

Attorneys for Applicants

Please charge or credit our
Account No. 03-0075 as necessary
to effect entry and/or ensure
consideration of this submission.